

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RYAN CHARLES DIEMOND,

Plaintiff,

v.

NOAH NAGY,

Defendant.

Case No. 23-12184

Honorable Robert J. White

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Ryan Charles Diemond filed this prisoner civil rights case after the warden defendant allegedly denied him access to the prison's legal writer program. *See* ECF No. 1. The Court referred the matter to Magistrate Judge Elizabeth A. Stafford. *See* ECF No. 23. Defendant moved for summary judgment on the ground that Plaintiff failed to exhaust his administrative remedies through the prison's grievance process before filing suit. *See* ECF No. 17. And Magistrate Judge Stafford recommended denying Defendant's motion. *See* ECF No. 29.

Despite being warned that a failure "to timely file specific objections" to Magistrate Judge Stafford's Report waives "any further [right of] appeal," ECF No. 29, PageID.410-411, neither party filed timely objections. This failure amounts to a

procedural default and frees the Court from any obligation to review the Report's conclusions *de novo*. *See* Fed. R. Civ. P. 72(b); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981) ("a party shall file objections with the district court or else waive right to appeal"); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("the failure to object may constitute a procedural default waiving review even at the district court level"); *White v. A.J.M. Packaging Corp.*, No. 23-1618, 2024 WL 3320451, at *1 (6th Cir. Mar. 11, 2024) (while "exceptional circumstances may warrant departure from this forfeiture rule ... no such circumstances are present in this case").

Magistrate Judge Stafford gives several reasons why Defendant's motion should be denied: (1) it was obvious that Plaintiff's grievance targeted Defendant; (2) Defendant failed to compare the earlier grievance the Michigan Department of Corrections (MDOC) cited to justify rejecting Plaintiff's grievance as duplicative; (3) Plaintiff's grievance was, in fact, not duplicative; and (4) even if the grievance *was* duplicative, MDOC erred by rendering the issues raised in it non-grievable. ECF No. 29, PageID.405-409. After reviewing the record, the Court deems Magistrate Judge Stafford's conclusions factually based and legally sound. Thus:

The Court ADOPTS Magistrate Judge Stafford's Report (ECF No. 29) and
DENIES Defendant's motion for summary judgment (ECF No. 17).

Dated: October 18, 2024

s/Robert J. White

Robert J. White

United States District Judge